



# Capitol Hill Weekly

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***This update reflects facts as of Monday morning, May 11, 2026. The situation is fluid and may change.***

Congress returns this week for what may be two busy weeks before the Memorial Day recess. Republicans hope to complete funding for the Department of Homeland Security (DHS), using the budget reconciliation process it began before its early May break. Congress would also like to reconcile House-Senate differences and pass a bipartisan housing bill aimed at addressing affordability, an important issue in this year's elections. It will also continue work on a bill to extend a critical provision of the Foreign Intelligence Surveillance Act (FISA). And Democrats seem likely to introduce more War Powers Act resolutions, as final resolution of the conflict with Iran does not appear imminent. Meanwhile, the broadly applied 10 percent tariffs recently imposed by the President have, like the tariffs they replaced, been found unauthorized by the Court of International Trade.

**DHS funding.** The DHS appropriations bill passed by Congress before the May recess did not include any additional funding for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). Operations of those two agencies have continued with funding provided by the One Big Beautiful Bill, but without the usual annual appropriations.

Democrats continue to object to additional funding for ICE and CBP without immigration enforcement reforms. Lacking 60 votes in the Senate, Republicans have begun the process of budget reconciliation to pass a partisan reconciliation bill, which would require only 51 votes in the Senate. They passed, without Democratic support, a budget resolution that provides instructions for the Homeland Security and Judiciary Committees of both houses to produce a reconciliation bill to provide \$72 billion in new funding. Instructing only those committees generally precludes amendments from other committees, such as tax amendments from the Finance and Ways and Means Committees.

The President has insisted that Congress act on the funding legislation by June 1.

The House Republican leadership has released a reconciliation bill that would fund ICE and CBP operations for over three years at current spending levels. It would provide \$38 billion for ICE and \$26 billion for CBP without any of the reforms being sought by Democrats. It would also provide some additional funding for the Department of Justice and some other programs.

And it would provide \$1 billion for the planned ballroom for the White House, a provision that, even among Republicans, might slow passage.

**FISA extension.** Section 702 of FISA authorizes surveillance of foreign persons without a warrant. That authority has proven somewhat controversial among some Republican and Democratic members because communications with U.S. citizens can be caught up in that surveillance.

Section 702 was to expire on April 30, but Congress passed a 45-day extension. The intent was to provide time for negotiation of reforms necessary for passage. The new expiration date is June 12, only two weeks after Congress returns from its Memorial Day recess, so negotiations will continue through this week and next.

**Housing.** The House and Senate have each passed versions of legislation to address housing affordability. Affordability is an important issue for the November elections, and the passage in both houses was broadly bipartisan. Both parties are anxious to act soon.

There are differences between the two bills that must be reconciled, however. The bills contain dozens of regulatory provisions intended to facilitate approvals and ease financing, among other things. The Senate modified some of the provisions of the House bill and added some of its own. The House has not yet agreed to the Senate changes.

Among the provisions added by the Senate, and perhaps the most controversial, is one that would limit the acquisition and ownership of single-family dwellings (SFDs) by institutional investors. Section 901 of the Senate bill would limit the number of SFDs owned by an institutional investor. It would also require SFDs built by institutional investors to be sold within seven years. The President issued an executive order in January supporting government action to limit institutional ownership, although the order did not address the build-to-rent model. Section 901 has nevertheless met with resistance in the House and so remains to be resolved.

**War Powers Act.** The War Powers Act provides the President unilateral authority to conduct military operations for 60 days in a national emergency involving imminent involvement in hostilities, that is, an attack on the United States. The military action against Iran began on February 28, so the 60-day period expired on May 1. Democrats have introduced more than half a dozen resolutions to require express Congressional authority for the continuation of operations, all of which narrowly failed on almost entirely partisan lines.

The President has taken the position that the Iranian military operation has been terminated, while also questioning the constitutionality of the Act. Democrats may be expected to disagree and introduce more resolutions. Even if the resolutions fail, Democrats hope to highlight the costs of the Iran action and its effect on the economy. As these resolutions are privileged under the Act, Congress will have to vote on them.

**Tariffs.** Customs had barely opened its portal for obtaining refunds of the \$166 billion of tariffs found by the courts to have been invalidly imposed under the International Emergency Economic Powers Act (IEEPA) when the Court of International Trade (CIT) held that the

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substitute 10 percent tariffs imposed under section 122 of the Trade Act of 1974 are also unauthorized. The Government has appealed the new CIT decision to the Court of Appeals for the Federal Circuit, but new uncertainty around tariffs has been created.

Meanwhile, the Office of the U.S. Trade Representative (USTR) has begun hearings on unfair trade practices. The USTR investigations could lead to yet other tariffs under section 301 of the Trade Act, contributing to further uncertainty. The Administration has indicated an intention that the section 301 tariffs will in some ways replicate the invalid IEEPA tariffs.

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